



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

By Speed Post Ack. Due and e-mail

Deputy General Manager
Enforcement Department-1
Division of Regulatory Action-II
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SEBI/HO/EFD1/EFD1_DRA2/P/OW/2022/52048/12
October 12, 2022

M/s Modex Commodity Trades Pvt. Ltd.
507, Padma Tower-II22, Rajendra Place,
New Delhi-110008
Email: contact@modexindia.com

Sub: Supplementary Show Cause Notice under Regulation 27(1) of SEBI (Intermediaries) Regulations, 2008

1. This is in continuation to Show Cause Notice No. SEBI/HO/EFD1/MIRSD/NSEL-ENQ/DRA2/20-21/1126/6/2021 dated January 15, 2021 ("SCN") (Copy enclosed as **Annexure A**) enclosing therewith the Enquiry Report submitted by the Designated Authority ("DA") in the matter of National Spot Exchange Limited (hereinafter referred as "NSEL") which was served upon M/s Modex Commodity Trades Pvt. Ltd. (hereinafter referred to as "you" / "the Noticee") for the proceedings initiated in terms of Chapter V of the SEBI (Intermediaries) Regulations, 2008 (hereinafter referred to as the "**Intermediaries Regulations**") read with Section 19 of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**"). This Supplementary Show Cause Notice (SSCN) may be read and treated as part of SCN, for the purpose of the said proceedings.
2. While the proceedings in the present matter were ongoing, SEBI passed certain orders rejecting the applications of five other entities for registration as commodity brokers. The Hon'ble Securities Appellate Tribunal (hereinafter be referred to as "**the Hon'ble SAT**")

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in



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vide its order dated June 9, 2022, (copy enclosed at Annexure B) remanded the aforesaid orders to SEBI based on the findings extracted below:

"42...The matters are remitted to the WTM to decide the matter afresh in the light of the observations made aforesaid in accordance with law after giving an opportunity of hearing to the brokers. All issues raised by the brokers for which a finality has not been reached remains open for them to be raised before the WTM. It will be open to the WTM to rely upon other material such as the complaint letters of NSEL, EOW report, EOW charge sheet, etc. provided such copies are provided to the brokers and opportunity is given to rebut the allegations. Such additional documents relied upon by the respondent should form part of the show cause notice for which purpose, it will be open to the WTM to issue a supplementary show cause notice."

3. In light of the above order of the Hon'ble SAT and certain other orders passed by the Hon'ble Tribunal in similar set of cases, it is felt necessary to furnish certain additional documents/material to you, before concluding the instant proceedings. The details of such additional material are elaborated hereunder.

- i. **SEBI complaint dated September 24, 2018 (Annexure C – 10 pages) filed with EOW** – Vide the said complaint, SEBI requested EOW to take lawful action against trading members of NSEL and other members of NSEL who were involved in trading in illegal forward contracts in violation of the provisions of Forward Contracts (Regulation) Act, 1952. Your name is appearing in the said complaint filed by SEBI.
- ii. **FIR dated September 28, 2018 by SEBI (Annexure D – 12 pages)** - On the basis of the aforesaid complaint, a FIR dated September 28, 2018 was filed by SEBI under Section 154 of the Code of Criminal Procedure, 1973. Your name is appearing in the FIR filed by SEBI.



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- iii. **Amended Schedule II of the Intermediaries Regulations (Annexure E - 4 pages)** – It may also be noted that the SEBI (Intermediaries) Regulations, 2008 have been amended by the SEBI (Intermediaries) (Third Amendment) Regulations, 2021, w.e.f. November 17, 2021. By the same, Schedule II of the Intermediaries Regulations, containing *inter alia* 'fit and proper person' criteria, has been amended.
4. As required under the Stock Broker Regulations, for the purpose of grant of certificate of Registration, the applicant has to be a fit and proper person in terms of Regulation 5(e) of the Stock Brokers Regulations read with Schedule II of the Intermediaries Regulations. It is alleged that in light of the above mentioned criminal complaint and information under Section 154 of the Code of Criminal Procedure, 1973 filed against you by SEBI as well as the observations against you in the Enquiry Report enclosed with SCN issued on January 15, 2021, you are no longer a fit and proper person for holding the certificate of registration under the Broker Regulations and is allegedly, in violation of regulation 5 (e) of the Stock Brokers Regulations read with Schedule II of the Intermediaries Regulations. The alleged provisions are provided below:
- “Consideration of application for grant of registration.**
- 5.The Board shall take into account for considering the grant of a certificate, all matters relating to trading, settling or dealing in securities and in particular the following, namely, whether the applicant,-*
- ...
- (e) is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;”*
5. You are, therefore, called upon to show cause as to why the aforesaid information/material as brought out above along with the Enquiry Report should not be considered against you, as deemed fit by the Competent Authority, under Regulation 27 of the Intermediaries Regulations.



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6. It is to be noted that this Notice shall be treated as a part of the SCN dated January 15, 2021. You are accordingly advised to submit your reply / comments / clarifications in addition to your earlier replies, if any, on the aforesaid findings within 15 days of receipt of this Notice. You may note that if no reply is received within 15 days of receipt of this letter, it shall be presumed that you have no (additional) comments / reply to submit and the matter would be proceeded in terms of the provisions contained in the Intermediaries Regulations. You may send your reply by way of e-mail to binodks@sebi.gov.in.

Binod Kumar Sharma

Encl: As above.